

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.:	09/980,676	This Response to Office Action is being electronically filed with USPTO's EFS-WEB, on this date: December 4, 2008
Applicant(s):	Kenneth G. BRASH	
Filed:	May 9, 2002	
Title:	FUMIGATION APPARATUS	
Examiner:	Darren W. ARK	
Art Unit:	3643	
Customer No.:	22242	
Confirm. No.:	6912	

EXAMINER INTERVIEW SUMMARY

Mail Stop Amendment
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Per 37 CFR § 133(b), the following is a brief summary of the Examiner interview conducted November 10, 2008 between Examiner Ark, Applicant Kenneth Brash and Attorney of Record Kendrew Colton.

Initially, Applicant acknowledges with appreciation Examiner Ark's willingness to take part in the interview on November 10, 2008 upon a short notice.

Mr. Brash showed Examiner Ark some documents showing awards to the fumigation system of the claimed invention as a demonstration of the use of the invention. Applicant also provided a proposed amendments to the claims and a new declaration Under 37 CFR 1.132. No other exhibits were presented.

Independent Claims 24, 25 and 45 were discussed in reference to the previously cited U.S. Patent No. 6,047,497 (Smithyman). Applicant stated that the Smithyman's patent teaches


away from the fumigation apparatus of the present application since Smithyman teaches mixing gases on site during fumigation providing separate supply of components of the mixture to minimize the flammable levels of phosphine. The mixing system of Smithyman is located outside of the compartments of the vehicle, and can be transported to different location and connected to the fumigation regions. In contrast, the fumigation apparatus according to present invention goes with the container. The fumigant inlet device, the exhaustion device and the absorption device are all contained within the same shipping container which makes for an easy and fully portable fumigation of container-transported produce.

Although no agreement was reached at the time of the interview, Applicant again thanks Examiner Ark for participating in the interview. Applicant filed a Request for Continued Examination along with the amended claims and the Declaration under 37 CFR 1.132 in order to reopen the prosecution.

Should there remain any outstanding issues that require adverse action, it is respectfully requested that Examiner Ark telephone James P. Krueger or Lilia Safonov at (312) 577-7000 so that such issues may be resolved as expeditiously as possible. Applicant respectfully submits that the pending claims are in condition for allowance, and thus, respectfully requests a Notice of Allowance.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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Dated: December 4, 2008

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